IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9183 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE R.R.TRIPATHI

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

DISTRICT DEVELOPMENT OFFICER

Versus

J S PRAJAPATI

Appearance:

MR HS MUNSHAW for Petitioner

MR IS SUPEHIA for Respondent No. 1

CORAM : MR.JUSTICE R.R.TRIPATHI

Date of decision: 28/04/2000

ORAL JUDGEMENT :

The present petition is filed by the District Development Officer, Vadodara, being aggrieved of the judgement and order passed by the Gujarat Civil Service Tribunal, Gandhinagar ("the Tribunal" for brevity) in Appeal No.45 of 1997/ 2277, whereby the Tribunal allowed the appeal and orders dated 16.2.1994 and 20.11.1996 passed by respondents nos.1 and 2 respectively were set aside. By this impugned order dated 16.2.1994, Annexure 'C' to the petition, the respondent, employee was imposed penalty of reversion to the lowest stage of the pay scale for a period of five years, without future effect. Against that the respondent had filed an appeal before the appellate authority and the said appeal was rejected.

By an order dated 20.11.1996, the penalty imposed by the disciplinary authority was confirmed.

2. Mr.Munshaw, learned advocate for the petitioner submitted that the Tribunal has passed the impugned order of allowing the appeal without recording any reasons. Mr.Munshaw invited attention of this Court to para 6 of the impugned judgement of the Tribunal, as in preceding five paras, the Tribunal has narrated the facts of the case. Para 6 reads as under:

"The appeal is finally heard by us on 22.7.99 and we think the appeal deserves to be allowed."

3. The reasons for which the appeal is required to be allowed are not mentioned. Mr.Munshaw, the learned advocate for the petitioner submitted that the judgement of the Tribunal is no judgement in true spirit of the term and therefore, same is required to be quashed and set aside.

4. Mr.Munshaw for the petitioner had invited attention of the Court to the irregularities of which the respondent workman was found to be guilty of having committed an irregularity in the inquiry held by the Inquiry Officer, who submitted his report dated 20.11.1991 (Annexure 'B'). In light of that fact if the judgement and order of the Tribunal is allowed to stand, the misconduct on the part of the respondent workman goes unpunished. Mr.Munshaw, the learned advocate fairly pointed out that it is also recorded by the Inquiry Officer that the charge regarding having indulged in the aforesaid irregularity for getting any personal financial benefit is not proved. Mr.Munshaw also pointed out that it is a mandatory requirement under the rules that whenever the work is above Rs.25,000/-, the prescribed procedure is to be followed by the concerned officer. If that procedure is not followed, it amounts to an irregularity. Such an irregularity once proved, the officer concerned is required to be punished.

5. In view of the aforesaid discussion the impugned order of the Tribunal is quashed and set aside and instead of remanding the matter to the authorities, the penalty of stoppage of three increments without future effect is imposed on the respondent workman to see that the irregularity committed by the respondent, workman does not go unpunished so as to send wrong signals among the other employees.

6. With these observations/ directions, the petition

is partly allowed, to the aforesaid extent only with no order as to costs.

(Ravi R. Tripathi, J.)
karim*